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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,285	08/14/2000	Bernard A. Traversat	5181-42900	1202

7590 04/29/2004

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EXAMINER

DUONG, OANH L

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 04/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/638,285

Applicant(s)

TRAVERSAT ET AL.

Examiner

Oanh L. Duong

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's argument is not persuasive.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-26.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5.
10. ☐ Other: \_\_\_\_\_

  
**HOSAIN ALAM**  
ADVISORY PATENT EXAMINER

## DETAILED ACTION

### *Response to Arguments*

1. In the remarks, applicant argued in substance that

(A) Prior Art does not teach "...failover server...to provide network environment functionality ...to configure said network environment to appear to a user as though said client computer system is connected to said remote network server unit when said client computer system is connected to said failover server."

As to point (A), Shimizu does teach a failover server (the term "failover server" is a label for software/function that performs work in a disconnected operation mode in which client can operate without accessing to the remote server or work performed in the network operation mode can be performed in a disconnected operation mode. Therefore, function 123 of Shimizu is equivalent to a failover server, col. 4 lines 48-55 and col. 5 lines 9-12) implemented on said client computer system (i.e., client computer 12), wherein said failover server is configured to provide network environment functionality (i.e., work performed in the network operation mode can be performed in a disconnected operation mode) if said remote network server unit is not available (col. 2 lines 44-47 and col. 4 lines 34-40); and a software manager (i.e., mode selection processing 124) stored in said client storage device, where said software manager is configured to connect to said remote network server unit if said remote network server unit is available or to connect to said failover if said remote network server unit is not

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available (col. 4 lines 56-61) and to configure said network environment to appear to a user as though said client computer system is connected to said remote network server unit when said client computer system is connected to said failover server (examiner has given the broadest reasonable interpretation of "configure network environment to appear to a user as though said client computer system is connected to said remote network server unit when said client computer system is connected to said failover server". Shimizu taught "the work performed in a network operation mode in which client computer assesses remote server can also be performed in a disconnected operation mode in which client computer can operate without accessing to the remote server, col. 5 lines 7-12). Thus "appearing" to the user as though the user is connected to said remote network server.

Examine wants to emphasize that If applicants want to define the fail-over server of applicants' claimed invention appears to a user to be the remote server and **a transition from connected to disconnected mode can occur without indication to the user**, applicants should amend the claim language as such.

As a result, cited prior art does disclose a system and method for operating a network computer, as broadly claimed by the Applicants. Applicants have still failed to identify specific claim limitations that would define a clearly patentable distinction over prior art.

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2. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 9 and 18. Claims 2-8, 10-17 and 19-26 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [see paper no. 4]. Accordingly, claims 1-26 are respectfully rejected.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh L. Duong whose telephone number is (703) 305-0295. The examiner can normally be reached on Monday- Friday, 8:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.D  
April 28, 2004